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असाधारण

EXTRAORDINARY

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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 23rd November, 2012:—

I

BILL No. XXXIV OF 2012

A Bill to provide for the remunerative price for the produce of the sugarcane growers, insurance of sugarcane crop free of cost and for their overall welfare and for matters connected therewith and incidental thereto.

BE it enacted by the Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Sugarcane Growers (Remunerative Price and Welfare) Act, 2012.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “sugarcane grower” means any person who cultivates sugarcane; and
- (b) “prescribed” means prescribed by rules made under this Act.

Procurement of sugarcane and fixation of its remunerative Price.

3. (1) It shall be the duty of the Central Government to procure the entire sugarcane produced in the country through an agency to be set up for the purpose.

(2) The Central Government shall fix the price of sugarcane every year after taking into consideration,—

- (i) the increase in the price of seeds, pesticides and fertilizers and other inputs;
- (ii) total investment of the sugarcane growers; and
- (iii) such other factors as may be prescribed.

Insurance of sugarcane and its growers.

4. The entire crop of sugarcane and its growers shall be compulsorily insured free of cost by the Central Government against natural calamities, fall in the yield of sugarcane, fall in the price of sugarcane and such other eventualities as may be prescribed.

Sugarcane Growers Welfare Fund.

5. (1) The Central Government shall set up a fund to be known as the Sugarcane Growers Welfare Fund.

(2) The Central Government and the State Governments shall contribute to the fund in such ratio as may be prescribed.

Utilisation of fund.

6. The Sugarcane Growers Welfare Fund shall be used for the following purposes, namely:—

(a) to provide financial assistance to sugarcane growers for purchasing sugarcane seeds, pesticides and fertilizers, and in case of low yields of sugarcane or loss of their crops due to rains, storms, floods, hailstorms and drought;

(b) to pay compensation to the next of kin of sugarcane growers in the event of their death;

(c) to pay life insurance premium on behalf of the sugarcane growers;

(d) to provide free health facilities for sugarcane growers and their families;

(e) to provide assistance to the sugarcane growers in the event of disability;

(f) to compensate the farmer(s) suitably in case as yield being less than estimated;

and

(g) for such other purposes as may be prescribed by the Central Government.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Sugarcane is a cash crop. It is cultivated in various States in the country. It is a crop of the whole year and it is one of the major materials to produce sugar. The Sugarcane growers are facing problems, as they are not getting remunerative price for their produce. Sugarcane growing has become a non-profitable agricultural activity due to increase in the prices of seeds, fertilizers and pesticides and other inputs and the prices of sugarcane produce have not increased in the same proportion. There is demand the price of the Sugarcane be fixed on the basis of cost of production and price of sugar. To meet the demand that sufficient production of sugarcane is necessary. It is possible, if, the growers get remunerative price for sugarcane. Sugarcane growers have to go for loans as the investment in the cultivation has gone up. They are also not getting payment of their produce on time. This has led to their indebtedness and when they are unable to repay loans, they take the extreme step of committing suicide or self immolations. Further, due to unremunerative price for sugarcane, the aggrieved sugarcane growers are forced to abandon sugarcane farming in favour of other crops resulting in decline in the growth of sugarcane production.

The Government is required to provide remunerative price and also immediate relief to sugarcane growers in the event of natural calamities like storm, heavy rains, drought, hailstorm and flood so that sugarcane growers can feel respite. There is an urgent need to enact a law, which can ensure governmental assistance to sugarcane growers in the event of fall in prices or damage to their crops. Therefore, setting up of a fund for sugarcane growers and provision of insurance scheme for them will prove to be beneficial. An agency is also required to be set up by the Central Government to procure the sugarcane produce.

The Bill, if enacted, will protect the interests and promote the welfare of the sugarcane growers in the country and will help growth of the sugarcane production in the country in a big way.

Hence, this Bill.

SHADI LAL BATRA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for procurement of sugarcane from sugarcane growers by an agency to be set up by the Central Government and fixation of remunerative prices for sugarcane by the Central Government. Clause 4 provides for compulsory free insurance of sugarcane and its growers by the Central Government against natural calamities. Clause 5 of the Bill provides for setting up of a Sugarcane Growers Welfare Fund to which the Central Government and the State Governments shall contribute in such ratio, as may be prescribed.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. Though, it is not possible to quantify the actual expenditure at this juncture, but it is estimated that a recurring expenditure of about rupees Five thousand crore may be incurred per annum.

A non-incurring annual expenditure of about rupees one thousand crore is also likely to be incurred on it.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

II

BILL NO. XXXV OF 2012

A Bill to provide for promotion of family planning measures by the Central and State Governments for population stabilization in the country through various incentives and disincentives so as to ensure that the population is commensurate with its social, economic and other developments and with the ecological balance and bridge the gap between the haves and have nots and for achieving quality of life and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Population Stabilization Act, 2012.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent
and commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "prescribed" means prescribed by rules made under this act; and

(c) "small family" means family having one child.

Giving effect to the policies of the States as laid in article 38 of the Constitution of India.

3. Notwithstanding anything contained in the Constitution of India or any other law for the time being in force, it is hereby declared that the provisions of this Act are for the purposes of giving effect to the policies of the State towards securing the principles laid down in article 38 of the Constitution of India.

Formulation of Comprehensive Population Policy.

4. The Central Government shall, as soon as may be, by notification in the Official Gazette, formulate a new comprehensive population policy particularly for the purposes of having one child norm for the eligible couples and other issues including economic, educational, legal medical, social and other incidental aspect to promote small family norms so as to effectively control the booming population of the country in order to achieve rapid economic progress and raise the standard of living of the masses.

Facilities to Government employees who adopts small family norm.

5. Notwithstanding anything contained in any other law for the time being in force, the employee of the Central Government or of a Public Sector enterprise under the Control of Central Government who adopts small family norm undergoing sterilization operation himself or of the spouse after the birth of his first child shall be given:—

(a) one year additional salary with all allowances along with two additional increments as incentives;

(b) plot or house site or built house from Housing Board or Development Authority of the Government at subsidized rates;

(c) loan for construction or purchasing the house from banks or financial institutions on nominal rate of interest;

(d) free healthcare facilities;

(e) free educational facilities to the child with vocational training and professional courses wherever necessary; and

(f) such other benefits and incentives as may be prescribed.

Extension of benefits to general public.

6. The incentives and benefits referred to in section 5 shall be extended mutatis mutandis to the general public in the manner provided therein.

Loss of benefits whoever contravenes small family norm.

7. Whoever in contravention of small family norm procreates more than one child, shall lose the incentives and benefits provided in this Act and in addition thereto shall,—

(a) be denied the subsidies in matters of loans extended to him;

(b) not be eligible to get the benefits of Public Distribution System;

(c) not be given any loan by any bank or financial institution; and

(d) not be entitled for such other facilities as may be prescribed.

No maternity benefits to be given for those having more than one living children.

8. Any women having one living child shall not be provided with maternity facilities in any Government Hospital, Dispensary, Health Centre or Medical Centre for the birth of her second child:

Provided that if, such women agrees to undergo sterilization operation after the birth of her second child then she shall be provided with the requisite maternity facilities forth with.

Miscellaneous provisions.

9. (1) Notwithstanding anything contained in any of the election laws for the time being in force, a citizen shall be disqualified for being chosen as a member of either House of Parliament or of the legislature of a State or of any body of the local self government, if that citizen has more than two living children:

Provided that this provision shall not apply in case of a citizen having more than two living children on or before the date of commencement of this Act.

(2) Notwithstanding anything contained in any other law for the time being in force, no marriage shall be solemnized between a male who is less than twenty-five years of age and a female who is less than twenty-two years of age.

(3) Every serving government employee and those who will join any government service shall give an undertaking that he shall not procreate more than one child:

Provided that this provision shall not apply to those government employees who have more than the prescribed number of living children on or before the date of commencement of this Act.

10. Whoever contravenes,—

Penalty.

(a) the provisions of sub-section (2) of section 9 shall commit cognizable offence and shall be punishable with simple imprisonment for a term which shall not be less than two years but may extend to four years and also with a fine, which may extend to two lakh rupees.

(b) the provisions of sub-section (3) of section 9 shall forfeit his right to promotion and shall not be eligible for any further increment till he is in government service.

11. The appropriate government shall,—

Duties of the Government.

(a) implement the revised National Population Policy to achieve the goals enumerated therein;

(b) set up maternity hospitals and centers in sufficient numbers at conspicuous places;

(c) distribute contraceptive pills, condoms through Healthcare Centres and Non-Governmental Organisations;

(d) organize sterilization camps from time to time;

(e) distribute iron and vitamin capsules and tablets amongst the expecting mothers;

(f) give wide publicity to the benefits of having small families; and

(g) undertake such other measures as it may deem fit and expedient for the purposes of this Act.

12. The Central Government shall after due appropriation made by law by Parliament in this behalf, provide requisite funds for carrying out the purposes of this Act from time to time.

Central Government to provide funds.

13. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act as may appears to it to be necessary or expedient for the removal of the difficulty.

Power to remove difficulty.

14. The provisions of this Act and of any rules and orders made thereunder shall have effect notwithstanding any thing inconsistent therewith contained in any other law for the time being in force.

Overriding effect.

15. The provisions of this Act shall be in addition to and not, save as otherwise expressly provided in this Act, in derogation of any other law for the time being in force in any part of this country.

Savings.

16. The Central Government may by notification in Official Gazette make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

India is the second most populous country after China with largest birth rate in the World. China's annual rate of population growth has been 0.6 per cent, against India's 1.4 per cent. Our population is around 1.3 billion, and is increasing every moment. Around 2030, India will become the most populous country on the earth—with a population of 1.6 billion by 2050. Our global land area is 2.4 per cent, but we have more than sixteen per cent of the global population making it the most densely populated nation of the world. This scenario is compelling as half the population lives in slums and under squalid conditions. This has caused over crowding due to which law and order situation also is deteriorating. Unemployment is rising rapidly causing frustration amongst the unemployed, particularly the youth who are being lured by anti-national and anti-social elements. There is unparalleled transformation of human values, social institutions and economic structures. Agriculture land holdings are becoming smaller and smaller and uneconomical and farmers are committing suicides due to this fact. The housing needs are far beyond the available finances and the shortage is appalling. Educational facilities are becoming hopelessly poor. Overcrowding is also causing environmental degradation. Jungles are vanishing for fuel, construction, furniture and for funeral purposes which has resulted water shortage and less rain and increased carbon-dioxide in the environment resulting in harmful diseases. The healthcare facilities are far from satisfactory and if, the population is not stabilised, we can hardly expect to achieve quality life and the situation will become from bad to worse.

It is , therefore, imperative that effective steps must be taken to check the increasing population. A clear message must go across the nations that since our resources are limited, we have to opt for smaller families. It is very unfortunate that despite availability of various birth control measures and several Family Planning Programmes, the population continues to rise menacingly. This Bill is a step towards population stabilization in the country.

Hence this Bill.

SHADI LAL BATRA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides certain benefits to Government employees who adopt small family norm. Clause 6 provides for extension of benefits to general public who adopt small family norm. Clause 12 lays down that Central Government shall provide requisite funds from time to time for carrying out the purposes of the Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. The Bill, therefore, will involve an annual recurring expenditure of about rupees one hundred crore out of the Consolidated Fund of India. A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

III

BILL NO. XXXVI OF 2012

A Bill to provide for the establishment of a Rural Electrification Authority to ensure uninterrupted electricity supply to farmers for their agricultural activities and for providing at least one bulb connection to every dwelling in rural India and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Rural Electrification Authority Act, 2012.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Authority" means the Rural Electrification Authority established under section 3;

(b) "prescribed" means prescribed by rules made under this Act;

(c) words and expressions used but not defined in this Act and defined in the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, shall have the meanings respectively assigned to them in those Acts.

9 of 1910
54 of 1948

3. (1) The Central Government shall, by notification, establish a Rural Electrification Authority to exercise the powers conferred on, and to perform such duties and functions assigned to it under this Act.

Establishment
of the Rural
Electrification
Authority.

(2) The Authority shall consist of not more than five members appointed by the Central Government from amongst the persons having domain, knowledge and professional expertise in the field of power generation, electrical maintenance, distribution and agriculture of whom at least two shall be from amongst the farmers.

(3) The Central Government shall appoint one of the members to be the Chairman of the Authority.

(4) The head office of the Rural Electrification Authority shall be in Delhi.

(5) The Authority may appoint a Secretary and such number of officers and employees as it considers necessary on such terms and conditions as may be prescribed.

(6) The qualifications and experience, term of office and allowances of the members, officers and employees of the Authority shall be such, as may be prescribed.

4. The powers and function of the Authority shall, *inter alia*, include,—

Powers and
functions of
the Authority.

(i) to develop a sound, adequate and uniform National Rural Electrification Policy;

(ii) to provide uninterrupted power supply to the farmers for irrigation and other agricultural purposes;

(iii) to provide uninterrupted power supply to the village and cottage industries and village artisans engaged in self-employment in villages;

(iv) to provide at least one bulb connection of electricity in every dwelling unit of each village in the country;

(v) to give attention to the drought prone areas by establishing power units for power generation under public private partnership exclusively to cater the requirements of the rural sector in the country;

(vi) to carry out the investigations and to collect and record the data pertaining to the generation, distribution and utilisation of power in the rural sector and the development of the power resources in the rural areas;

(vii) to co-ordinate the activities of the national and state planning agencies particularly in relation to the control and utilisation of power resources for the rural sector;

(viii) to advise the Government and other agencies on production, distribution and utilisation of power and such other related matters from time to time.

5. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law, adequate funds for the rural electrification works to be undertaken by the Authority and for the administrative expenses of the Authority.

Funds for the
Authority.

Rural
Electricity
Development
Fund.

6. The Authority shall have a Fund to be called the Rural Electricity Development Fund to which all moneys received from the Central and State Governments for the purposes of rural electrification and from all other sources such as the rural consumers, private sector generating electricity for rural sector, etc. shall be credited and all payments by the Authority towards electrification expenditure shall be made therefrom.

Authority to
establish new
power
generating
stations.

7. The Authority shall establish new power generating stations in any area in which it is required by any scheme of the Authority.

Authority to
provide
electricity at
subsidised rates
to farmers.

8. The Authority may supply electricity to the farmers at such subsidised rates as may be prescribed from time to time.

One Bulb
connection to
be free of cost
for the
Scheduled
Caste,
Scheduled
Tribe and
Other
Backward
Class including
minorities and
below poverty
line residing in
rural areas.

9. It shall be the duty of the Authority to provide one bulb connection and supply of electricity thereto free of cost to the Scheduled Caste, Scheduled Tribe and Other Backward Class including minorities and below poverty line families residing in rural areas of the country.

Effect of other
laws.

10. Save as otherwise provided in this Act, the provisions of this Act shall be in addition to and not in derogation of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

9 of 1910
54 of 1948

Power to make
rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Our country is facing an acute shortage of power in the industrial sector, the agricultural sector and the household. Our power stations are producing electricity much below their generating capacity whereas the demand for electricity is increasing day-by-day in all the sectors. It has been observed that while distributing the electricity, the Electricity Boards and Undertakings give priority to the urban areas and the industrial sector thereby neglecting the rural areas particularly the agricultural sector. Very often it has been seen that the electricity meant for rural areas is diverted to the urban areas. Nobody bothers when the electricity is cut off to the rural areas for days together even if the crops of the hapless farmers are drying in the absence of the water.

Seventy per cent. of the population of the country is living in villages and lacks facilities to live a decent life and sufficient earning to meet both ends. This compels the new generation to migrate to towns. This migration is not only disturbing the development of the towns, but also destabilising the village economy. It is the need of the day that all infrastructural facilities and employment opportunities be provided to promote the young generation in their development at the place of their stay only. As most of the population in the country is engaged in agriculture and agriculture-related small and cottage industries, it is our bounden duty to give uninterrupted power supply to the agricultural sector. It is also necessary to provide at least one bulb connection to every household including every dwelling unit in the country. To achieve these objects, it is proposed to establish a Rural Electrification Authority to provide electricity exclusively to the rural areas and uninterrupted electricity supply to the agricultural sector including drought prone areas and give at least one bulb connection to every household in the villages.

Hence this Bill.

SHADI LAL BATRA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of the Rural Electrification Authority. Clause 5 provides that Central Government shall provide funds to the Authority. Clause 6 provides for creation of a rural electricity development fund to which the Central and State Governments shall contribute for the purposes of rural electrification and from all others sources such as rural consumer, private sector generating electricity for rural sector etc. shall be credited.

Clause 7 of the Bill provides that Rural Electrification Authority shall establish new power generation station. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India and it is difficult to calculate the expense at this juncture. A non-recurring expenditure of rupees one hundred crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

IV

BILL NO. XL OF 2012

A Bill to amend the Bihar Reorganisation Act, 2000.

WHEREAS paragraph 4 of the Eighth Schedule of the Bihar Reorganisation Act, 2000 provides for apportioning the liabilities of pension in the ratio of number of employees of each successor State is discriminately;

AND WHEREAS in all the State Reorganisation Acts passed by the Parliament ever since 1956, the apportionment of pension liability has been done in the population ratio of each successor State and therefore it is expedient to rectify the discriminatory clause of the Bihar Reorganisation Act, 2000.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Bihar Reorganisation (Amendment) Act, 2012.

Short title
and
commencement.

(2) It shall come into force from the date of notification of the Bihar Reorganisation Act, 2000.

2. In the Eighth Schedule of the Bihar Reorganisation Act, 2000, in paragraph (4) for the words “in the ratio of number of employees of each successor State”, the words “in the ratio of population of each successor State” shall be substituted.

Amendment
of Eighth
Schedule of
Act 30 of
2000.

STATEMENT OF OBJECTS AND REASONS

The Eighth Schedule of the Bihar Reorganisation Act, 2000 deals with apportionment of pension between two successor States of Bihar and Jharkhand. It provides for apportionment of pension liability in the ratio of number of employees whereas in the case of reorganisation of Madhya Pradesh and Uttar Pradesh happened in the year 2000 along with the State of Bihar, the apportionment of pension liability has been done in the ratio of population. The formula of population ratio has been adopted in the case of all new States created ever since 1956. This clause has put an extra burden of nearly two thousand crore over the last ten years on the State of Jharkhand. The proposed amendment to Eighth Schedule aims to substitute the existing pension liability calculated in the ratio of number employees with ratio of population which has done in all other newly created States.

Hence this Bill.

JAI PRAKASH NARAYAN SINGH

FINANCIAL MEMORANDUM

The Bill, if enacted will facilitate a reasonable and logical division of pension liabilities between both the successor States of Bihar and Jharkhand. Hence, the proposed Bill will not bring forth any additional expenditure on the Consolidated Fund of India.

V

BILL NO. XLIII OF 2012

A Bill to provide for reservation Posts in Government establishment for Orphans and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

Short title,
Extent and
commence-
ment.

1. (1) This Act may be called the Orphans (Reservation of Posts in Government Establishment) Act, 2012.

(2) It shall apply to whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appointing authority”, in relation to a service or post in an establishment, means the authority empowered to make appointment to such service or post;

(b) 'appropriate Government' means the State in relation to Government of a State and the Central Government in all other matters;

(c) "establishment" means every establishment owned, established, controlled, managed or financed by the appropriate Government and includes—

(i) a Ministry or department or subordinate office or attached office of the appropriate Government;

(ii) a public sector undertaking or statutory authority constituted under any Central Act;

(iii) a corporation in which not less than fifty-one per cent. of the paid-up share capital is held by the Government;

(iv) a university established by a Central Act and its affiliated colleges, including medical and engineering colleges and institutions;

(v) a primary or secondary school or any other educational institution;

(vi) an industry, trade or business;

(vii) a Government company as defined under section 617 of the Companies Act, 1956; and

(viii) an autonomous body, organisation or institution receiving grant or aid from the Consolidated Fund of India.

(d) "Group 'A' post" or "Group 'B' post" or "Group 'C' post" means a post which is classified as such by the President in exercise of the powers conferred by the proviso to article 309 of the Constitution or by or under any Act of Parliament and includes an equivalent post in any establishment;

(e) "Orphan" means a beraft through death or disappearance of, abandonment or desertion by, or separation or loss from both parents;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "promotion by non-selection" means promotion made on the basis of seniority-cum-fitness;

(h) "promotion by selection" means promotion made on the basis of merit-cum-seniority;

(i) "recruitment year" means the calendar year for which the recruitment is made;

(j) "scientific or technical post" include post for which qualifications in natural sciences or exact sciences or applied sciences or technology are essential and the incumbent of such post shall have to use his or her knowledge in such sciences for discharge of duties.

3. (1) The appropriate Government shall reserve such percentage of posts for the Orphans for appointment in civil services by direct recruitment and promotion, in such manner, as may be prescribed.

Reservation of posts for appointment in Civil Services.

(2) The vacancy reserved for Orphans under sub-section (1) shall be filled in such manner as may be prescribed.

4. (1) Notwithstanding anything contained in section 3, there shall be no reservation where appointments are made—

No reservation in certain cases.

(i) for a period of less than forty-five days;

(ii) for work charged post required for any emergency relief work;

(iii) to posts higher than the lowest grade of Group 'A' posts and classified as scientific or technical post; and

(iv) to posts higher than the lowest grade of Group 'A' posts in institutions of national importance and Indian Institutes of Management as may be specified in the Act.

(2) The Central Government may, by notification in the Official Gazette, include or omit any institution of national importance and Indian Institutes of management from the purview of this Act and on the publication of such notification, such institution shall be deemed to be included in or as the case may be, omitted under this Act.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

Unreserved vacancies to be open to orphans.

5. (1) Appointment to an unreserved vacancy shall be open to all eligible persons including a person belonging to the orphan category.

(2) Where such unreserved vacancy is filled by direct recruitment or promotion by a person belonging to the orphan category on the basis of merit, then, such person shall be appointed against the unreserved vacancy:

Provided that no such appointment shall be made for promotion by non-selection.

Relaxation of age.

6. (1) The maximum age limit fixed for direct recruitment to a service or post shall be increased by five years for the orphans.

(2) The maximum age limit fixed for promotion to a post, if any, shall be increased by five years for the orphans:

Provided that no such relaxation shall be available where the maximum age limit for promotion has been fixed above fifty years.

Fee concession.

7. The examination fee or application fee, determined for recruitment to a service or post through competitive examination or otherwise, may be reduced to such extent for the orphans, as may be prescribed.

Relaxation in qualifications and experience.

8. (1) Any standard of suitability, excluding the essential and desirable qualifications, required for appointment by direct recruitment to a post may be relaxed for the orphans, if sufficient number of such candidates possessing requisite standards are not available to fill the vacancies reserved for them:

Provided that no such appointment shall be made where the candidate is found unfit to hold the post.

(2) The experience required for appointment by direct recruitment to a post may be relaxed for the orphans, if at any stage of selection, sufficient number of such candidates possessing the requisite experience are not available to fill the vacancies reserved for them.

Reservation in case of Promotion.

9. (1) Where a qualifying examination is held to determine fitness of eligible persons for promotion by non-selection and sufficient number of orphans fulfilling the qualifying standards are not available to fill the vacancies reserved for them, such qualifying standards may be relaxed, consistent with the minimum standards of fitness required for appointment to the post, in the case of the orphans.

(2) Where qualifying examination is held to determine merit of eligible persons for promotion by selection and sufficient number of the orphans fulfilling the qualifying standards are not available to fill the vacancies reserved for them, such qualifying standards may be relaxed, consistent with the minimum standards of merit required for appointment to the posts, in the case of the orphans.

Reserved vacancies to be filled by orphans only.

10. The vacancies reserved for the orphans shall be filled by the orphans only.

11. Where posts in an establishment are to be abolished and as a result thereof, the services of certain persons are required to be either surrendered or terminated, no such surrender or termination shall be made in respect of the orphans, if it results in lowering their representation in relation to the percentage of reservation fixed for them. Abolition of Posts in an establishment.
12. (1) Every establishment shall designate an officer of such rank, as may be prescribed, to function as a liaison officer for the purpose of ensuring that the provisions of this Act or the rules made thereunder or any direction or instruction issued by the Government regarding reservation are not contravened. Liaison officer.
- (2) The liaison officer shall, from time to time, inspect and verify the documents, records and reports with respect to appointments of the orphans made by the appointing authority by direct recruitment or promotion.
- (3) Where the liaison officer is satisfied that any establishment has contravened the provisions of this Act or the rules made thereunder or any direction or instruction issued, he shall submit a report of such contravention to the head of the establishment.
- (4) On receipt of the report of contravention under sub-section (3), the head of establishment shall take such disciplinary action against the person responsible for such contravention as may be prescribed.
13. (1) Every appointing authority, or an officer authorised by him in this behalf, shall maintain such documents and records, and furnish every year a report on the appointments of the orphans made by direct recruitment and promotion, in such manner and at such time, as may be prescribed. Maintenance of documents and records.
- (2) The appointing authority or any other officer authorised by him shall make available such documents and records for inspection, furnish such information, and render such assistance, to the liaison officer, as may be necessary, to enable him to carry out his functions under this Act.
14. The appropriate Government shall, subject to the availability of finance and other resources, develop and organise training programmes to advance the competence of the orphans for appointment to services and posts. Training Programme for orphans.
15. Whoever knowingly makes a false claim that he is an orphan, shall be liable to punishment for a term which may extend to three years or with fine which may extend to rupees fifty thousand or with both. Penalty for false claim.
16. Whoever knowingly issues a false orphan certificate shall be liable for punishment for a term which may extend to three years or with fine which may extend to rupees fifty thousand or with both. Penalty for issuing false certificate.
17. Where any person responsible for implementing the provisions of this Act or the rules made thereunder, intentionally contravenes any of the provisions thereof, he shall be liable for disciplinary action under the service rules applicable to such person. Disciplinary action.
18. The appropriate Government may, for giving effect to the provisions of this Act or the rules made thereunder, issue such directions to establishments, as it deems fit. Directions of establishments.
19. All memoranda issued or purported to have been issued by the Government in relation to reservation of posts in Government services for the orphans, immediately before the commencement of this Act, shall, in so far as they relate to the matters for which provisions have been made in this Act and are not inconsistent therewith, be deemed to have been issued under this Act as if this Act had been in force on the date on which such memoranda were issued. Existing office memoranda to continue.
20. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act. Power to make rules.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the percentage of posts for reservation and the manner of reservation under sub-section (1) of section 3;

(b) the manner of filling vacancies under sub-section (2) of section 3;

(c) the extent of reduction in examination fee and application fee under section 7;

(d) the rank of the officer to be designated as the liaison officer under sub-section (1) of section 12;

(e) the documents and records to be maintained and the time and manner of furnishing report under sub-section (1) of section 13.

(3) Every rule made by the Government under this section shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Orphans do not have any identity in the society except the names and surnames given by the Orphanages. After they turn eighteen years of age, they lose this shelter also and are placed in the society without any defense. Soon they discover that their names and surnames do not entitle them to any of the benefits that a social group, as deprived as theirs, would normally have access to. Therefore, it is pertinent that the Government should recognize the orphans as a socially, economically deprived group like other Backward classes, Scheduled Castes, Scheduled Tribes and others and provide for reservation for orphans in government jobs with a view to empower the orphans to live a respectful and decent life.

Hence this Bill.

AVINASH RAI KHANNA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of this Bill.

Since the rules will relate to matters of details only, the delegation of legislation power is of a normal character.

VI

BILL NO. XLVII OF 2012

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2012.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 75 of the Constitution,—

Amendment
of article 75.

(i) for clause (1), the following be substituted, namely:—

(1) The first sitting of the House of the People after it is constituted, after a General Election, shall be convened by the Speaker at which only an elected member of the House shall be elected as the leader of the House by majority of the members of the House:

Provided that the name of the person so elected shall be communicated to the President who shall appoint him as the Prime Minister and other Ministers shall be appointed by the President on the advice of the Prime Minister :

Provided further that the procedure mentioned in clause (1) shall be followed on subsequent occasion for appointment of Prime Minister.

(ii) for clause (5), the following be substituted, namely:—

(5) A Minister other than the Prime Minister who for any period of six consecutive months is not a member of either House of Parliament shall at expiration of that period cease to be a Minister.

Amendment
of article
164.

3. In article 164 of the Constitution,—

(i) for clause (1), the following be substituted, namely:—

(1) The first sitting of the State Legislative Assembly after it is constituted, after a General Election, shall be convened by the Speaker at which only an elected member of the Legislative Assembly shall be elected as the leader of the State Legislative Assembly by majority of the members of the State Legislative Assembly :

Provided that the name of the person so elected shall be communicated to the Governor who shall appoint him as the Chief Minister and other Ministers shall be appointed by the Governor on the advice of the Chief Minister :

Provided further that the procedure mentioned in clause (1) shall be followed on subsequent occasion for appointment of Chief Minister.

(ii) for clause (4), the following be substituted, namely:—

(4) A Minister other than the Chief Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at expiration of that period cease to be a Minister.

STATEMENT OF OBJECT AND REASONS

It is implicit from the provisions of the Constitution including the Preamble that we the people of India have adopted Democratic System of the Government which implies that a person to be appointed as the Prime Minister or the Chief Minister must have been elected by the people to the House of People or State Legislative Assembly as the case may be and further he should have been elected by majority of the members of the House of People or the State Legislative Assembly as the case may be. But a practice has come into existence according to which clause (5) of article 75 and clause (4) of article 164 which provide for appointment as Ministers who are not members of the Parliament or the State Legislature and that they may continue for a period of six months unless elected in the meanwhile is being taken advantage of for appointment of a non-member as Prime Minister or Chief Minister, though it was not the intention of the Constitution. This is clear from the fact that clause (5) of article 75 which provides that a person who is appointed as minister but who is not a member of the Parliament shall continue as minister only for a period of six months and that if in the meanwhile he is not elected to the Parliament, he shall cease to be a minister. Similarly, clause (4) of article 164 provides that a person who is appointed as a minister though he is not a member of the State Legislature, he will continue as minister only for a period of six months and thereafter, he will cease to be a Minister, if he is not elected to the State Legislature within a period of six months. The expression Minister both under clause (5) of article 75 and clause (4) of article 164 obviously does not include Prime Minister and Chief Minister for the reason that if the Prime Minister or the Chief Minister is not a member of the Parliament or the State Legislature as the case may be, were to be appointed as Prime Minister or the Chief Minister and if he is not elected within a period of six months, at the end of the six months not only he ceases to hold the office, the entire council of ministers including all the elected members who were ministers will also cease to hold the office. Therefore, there is a clear distinction between 'Minister' and 'Prime Minister' as also 'Minister' and 'Chief Minister'. In view of the wrong practice that has come into existence in violation of the real intention of the Constitution, it has become necessary to clarify this aspect in the interest of democracy.

Another incongruous practice which has been brought to being is that the President or the Governor as the case may be, to appoint any person as Prime Minister or Chief Minister as the case may be, and thereafter to call upon him to prove his majority in the House within the time specified, which is not the real intention of article 75 or 164, and is also inconsistent with the principles of democracy. Therefore, it is expedient to provide that only a person elected by the House of People by majority and communicated to the President by the Speaker shall be appointed as the Prime Minister and similarly a member of the State Legislative Assembly who is elected by majority and communicated to the Governor by the Speaker, shall be appointed as the Chief Minister. If, however, in a given case there is doubt as to whether the person appointed as Prime Minister or Chief Minister has the support of majority in the House of the People or the person appointed as Chief Minister has the support of the majority of the legislative assembly, it is open for the opposition to move a no-confidence resolution. Neither the President nor the Governor has the authority to make appointments of Prime Minister or the Chief Minister subject to the condition of proving majority in the House of the People or State Legislative Assembly within the time specified by him.

The changes are absolutely necessary to strengthen the democratic system by avoiding the appointment of a person not elected by the people or not having majority in the House from being appointed as Prime Minister or the Chief Minister.

Hence this Bill.

M. RAMA JOIS

VII

BILL NO. L OF 2012

*A Bill further to amend the Employees' Provident Funds and
Miscellaneous Provisions Act, 1952.*

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 2012.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In sub-section (3) of Section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952,—

Amendment
of section 1
of Act 19 of
1952.

(i) In clause (a), for the word "twenty" the word "five" shall be substituted.

(ii) In clause (b), for the word "twenty" the word "five" shall be substituted.

(iii) In the proviso for the word "twenty" the word "five" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The sub-section (3) of Section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides its applicability to all the establishments having engaged twenty or more persons.

In India millions of employees work in such establishments where less than twenty persons are engaged and such persons are deprived of various social security benefits such as pension, gratuity and provident fund. They should also be entitled to such benefits under the Act for its proper implementation.

The Bill proposing amendments to Section 1 of the Act seeks to achieve the aforesaid objectives.

Hence this Bill.

RAMA CHANDRA KHUNTIA

VIII

BILL No. LI OF 2012

A Bill further to amend the Payment of Gratuity Act, 2012.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

Short title
and
commencement.

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2012.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of Section 4
of Act 39 of
1972.

2. In sub-section (2) of Section 4 of Payment of Gratuity Act, 1972, for the words “at the rate of fifteen days’ wages” the words “at the rate of thirty days’ wages” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The sub-section (2) of Section 4 of the Payment of Gratuity Act, 1972 provides for payment of gratuity to the employees at the rate of fifteen days' wages based on the rate of wages last drawn for every completed year of service. In today's world of high prices and inflation, the gratuity of fifteen days wages for every completed year is too meager. At such a small rate, a person cannot get enough amount for post retirement settlement. It should therefore be atleast at the rate of thirty days' salary for every completed year of service.

The Bill proposing amendments to Section 4 of the Act seeks to achieve the aforesaid objectives.

Hence this Bill.

RAMA CHANDRA KHUNTIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to revise the rate of gratuity from fifteen days' salary per completed year of service to thirty days' salary for every completed year of service, to all the employees employed on wages in any establishment, whether it is public or private. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one thousand crore will be involved. No non-recurring expenditure is likely to be involved.

SHUMSHER K. SHERIFF,
Secretary-General.